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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 HOLLAND AMERICA, *et al.*,

11 Plaintiffs,

12 v.

13 WARTSILA NORTH AMERICA, INC., *et*
14 *al.*,

15 Defendants.

CASE NO. C04-1368RSM

ORDER GRANTING MOTION
FOR PARTIAL LIFT OF STAY

16 This matter comes before the Court on defendant Wartsila North America, Inc.'s Motion
17 for Partial Lift of Stay. (Dkt. #192). Defendants Bureau Veritas, S.A., Bureau Veritas
18 (Canada) Inc., and Bureau Veritas North America, Inc., join in and support the motion. (Dkt.
19 #193). Defendants alert the Court that a newly-discovered witness claims to have information
20 relating to the fire at issue in this lawsuit. Defendants argue that there is a substantial risk they
21 will be unable to obtain evidence from this witness, including a deposition, if discovery continues
22 to be stayed while certain portions of this case are on appeal in the Ninth Circuit.

23 Plaintiffs oppose the motion in one conclusory paragraph, asserting that this Court
24 should deny defendants' motion because, in a separate case, the Court has previously determined
25 that plaintiff is not at fault for the fire, and because defendants have failed to identify the newly-
26 discovered witness as required by Rule 26 of the Federal Rules of Civil Procedure. (Dkt. #194).

1 While plaintiff argues that this Court should not grant defendants' motion because it has
2 previously determined that plaintiff is not at fault for the fire at issue, plaintiff fails to provide
3 any legal support for its unilateral assertion that the case to which it cites should prevent partial
4 discovery in the instant case. Moreover, plaintiff fails to demonstrate how the current
5 defendants, who were not parties to that limitation proceeding, are subject to any of the findings
6 in that case.

7 Furthermore, plaintiff has failed to demonstrate any prejudice to their case through
8 defendants' failure to identify the newly-discovered witness, or any prejudice to their case by
9 allowing a partial lift of the stay currently in effect.

10 Accordingly, the Court hereby ORDERS:

11 (1) Defendants' Motion for Partial Lift of Stay (Dkt. #192) is GRANTED.

12 (2) The stay currently in effect in this case is modified to the extent that defendants shall
13 be allowed to proceed with discovery pertaining to the newly-discovered witness discussed in
14 the motion. However, this case remains STAYED in all other respects pending a decision by the
15 Ninth Circuit Court of Appeals.

16 (3) The Clerk shall forward a copy of this Order to all counsel of record.

17 DATED this 14th day of October, 2005.

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20 RICARDO S. MARTINEZ
21 UNITED STATES DISTRICT JUDGE
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